The Saloon a Nuisance and License Unconstitutional

J. R. DILL

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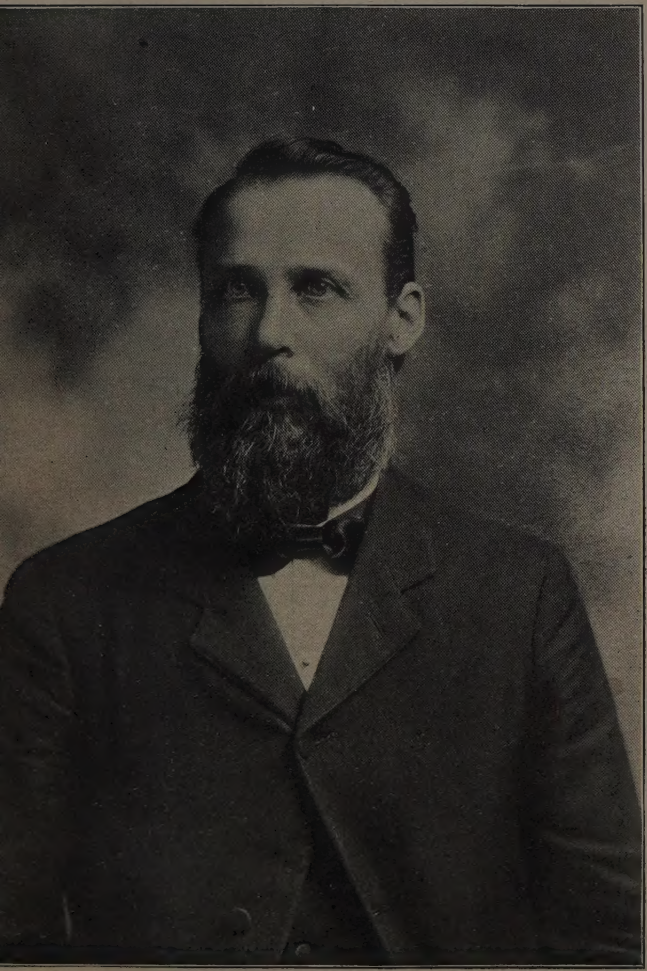

JAMES RENWICK DILL.

THE SALOON A NUISANCE AND LICENSE UNCONSTITUTIONAL

BY

THE AUTHOR

OF

THE REFORM INSTITUTE

IN

CHRISTIAN CITIZENSHIP

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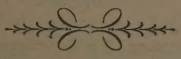
J. R. DILL

THIS little volume is designed to be a stenographic report of the proceedings of a presumable case in the United States Supreme Court, in which the traffic in intoxicating drink receives the death-blow. The scene carries us into the future, and may be regarded as prophetical of that which must shortly come to pass.



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LET GOD ARISE.

EVERY

NATIONAL, DOMESTIC

AND

PERSONAL INTEREST

DEMANDS

The Church; The State; The Home;

ABSOLUTE

IMMEDIATE

AND

UNCONDITIONAL

The Mind; The Body; The Vocation.

PROHIBITION

UNION; JUSTICE; TRANQUILITY;

IN

ACCORDANCE

WITH THE

BIBLE

AND THE

PREAMBLE

OF

THE

WELFARE; DEFENSE; LIBERTY.

CONSTITUTION.

THE MORAL LAW.

The Diagram.

That the Traffic in intoxicating drinks should be abolished, is not a question with intelligent people.

That this Traffic will be eliminated from society is not a question with those who have faith in God and believe His Word.

The Nation cannot enjoy true prosperity as long as the saloon taps the resources of her wealth and saps the virtues of her manhood.

The Home is defenceless against merciless wrongs and greatest griefs, while this unholy trade flings its shadow over the threshold of the family.

Personal honor is imperiled, character is menaced, purity is treading on the edge of mire, where the Bar offers its inducements to the appetite.

The claims of Prohibition are sustained by the spirit of the Preamble of the United States Constitution, as the clauses all join in a grand chorus, pleading for the welfare of the Nation.

The Constitution, when squared with the Divine Law, and guarding all the interests of man, will give expression against this trade, which is the Nation's curse and the world's blot.

BIBLE STUDIES

ON

Prohibition.

The sorrows of the drunkard.—*Proverbs 23 : 20-35.*

The vain attempt to make the drink trade right by Law.—*Isaiah 5 : 18-25.*

Woes pronounced upon those who revel in High License.—*Isaiah 28 : 1-15.*

The drunkard's doom.—*Galatians 5 : 19-21.*

A woe for the man who treats his fellow to strong drink.—*Habakkuk 2 : 15-17.*

The Divine cure for drunkenness.—*Ephesians 5 : 11-21.*

Temperance habits give beauty and strength to character.—*Daniel 1 : 8-21.*

The duty of the Church to keep herself separate ; to have no complicity with, or responsibility for, the unclean thing.—*II Corinthians 6 : 14-18.*

The duty of the State to suppress the Trade in intoxicants.—*Romans 13 : 3-6.*

The Triumph of Prohibition principles assured. —*Isaiah 11 : 1-10.*

The Saloon a Nuisance

AND

License Unconstitutional.

The Saloon a Nuisance.

"When God speaks, let all the earth keep silent before Him." His judgments are perfect and He makes no mistakes. Every interest of His Kingdom must remain permanently secure even when His providences relating thereto are passive. His enemies may indeed protest, but it will not effect the execution of His purpose. When in course of human events, He demonstrates His will, the acquiescent faith of His children should lead them to say, "Amen,—so it shall be."

For many generations the liquor traffic had been insidiously and aggressively establishing itself, until it became so interwoven with the usages and customs of the people, that it was generally regarded as a necessary and component part of the very fabric of our civilization. When the supreme moment arrived, and the chief tribunal of our country with unanimous decision declared the saloon to be a nuisance and license

unconstitutional, the announcement fell upon the ears of astonished millions like a thunder-clap from a clear sky. It is our purpose to call attention to the novel procedure of the case in its last hearing, which resulted in the complete overthrow of the liquor traffic. We are confident that our readers in the perusal of the following pages, will acquiesce in the decision that the saloon was a public nuisance, both in the legal and moral sense, and that its license was unconstitutional.

A Public Nuisance Defined.

A public nuisance may exist either in a legal or a moral sense. A public nuisance in a legal sense is, "that which annoys, offends and inconveniences any great number of persons in a locality; or, that which tends to damage the health, the industrial life, or the property of any great number of persons in a locality." A public nuisance in a moral sense is, "that which tends to corrupt the morals of any great number of persons in a locality." If we be able to establish the fact, that the licensed saloon thus damaged great numbers of persons in localities, we shall have succeeded in establishing our first proposition.

The case which our narrative unfolds was concluded (let us assume) December 20th, 1919,

and the unanimous decision of the Supreme Court was published January 1st, 1920. The following purports to be the report of the proceedings as recorded by the chief clerk. The report naturally divides itself into sections.

SECTION I.

Charge of the Chief Justice.

The Supreme Court will require you, the chief advocate of license and leading witness in the defense, to answer all proper questions propounded by the prosecuting attorney to the extent of your ability. You should be able to make known to the court, the reasons why the many limitations and prohibitory restrictions have been placed in the text of the various license measures by the friends and promoters of license. The cross-examination should result in the perfect dissecting of the license measures, exposing to public view the real reason for each restriction. The novelty of the case before us has led the court to the conclusion to try the case all over again, according to the method of the lower courts, instead of conducting the same directly from the brief by which the case was conveyed to us. When the case is finished, we will be able to prepare and hand down a just and equitable decision. The Prosecuting Attorney will now proceed to re-conduct the cross-examination.

SECTION II.

Cross-Examination.

PROSECUTING ATTORNEY. What parties, in their national organizations, have persistently continued to license the liquor traffic?

ADVOCATE OF LICENSE. The Republican and Democratic parties.

P. A. Who encouraged said parties to cling to the license policy?

A. of L. Saloon-keepers, gamblers, operators of brothels, anarchists, and many professing Christians.

P. A. How did the classes enumerated encourage the parties named in such iniquity?

A. of L. By their influence and their ballots.

P. A. How did the two great parties always speak in reference to the principle of prohibition?

A. of L. They denounced the principle of prohibition as, "sumptuary legislation," and "unjust interference with men's liberty."

P. A. How did they speak in reference to the principle of license?

A. of L. They upheld the principle of license as "opposition to sumptuary legislation," and as "all-wise, wholesome and well-directed temperance measures."

P. A. What did prohibitionists purpose doing with the saloon?

A. of L. They pledged themselves to destroy the saloon, claiming for their encouragement that God is pledged to destroy the works of the devil.

P. A. Why did the general government continue to encourage the extensive manufacture and sale of intoxicating liquor as a beverage?

A. of L. Because it was made senior partner in the business, and received part of the profits in an internal revenue.

P. A. Why did the several States continue to favor the license policy?

A. of L. Like the general government, they also became partners in the business, and received a part of the profits.

P. A. Why did the municipalities favor the multiplication of saloons?

A. of L. The municipalities received a large revenue from each saloon, and the more saloons, the greater their share of the profits.

P. A. Why did saloon-keepers, gamblers, operators of brothels, anarchists, and many professing Christians, in the joint use of the ballot, continue to support license and license parties?

A. of L. The classes mentioned knew that their various occupations could grow and flourish only through the use of intoxicating drinks.

Moreover, many professing Christians tried to persuade themselves that the saloon could never be destroyed; that the prohibitory or restrictive features of the license measures had rendered the business respectable; and that the revenue derived from the business had lessened their taxes.

P. A. Who is permitted to engage in the retail liquor business, under the so-called statutes, ostensibly enacted for the regulation of the traffic?

A. of L. The statutes enacted for the regulating of the retail liquor traffic, expressly require that persons of good moral character only be permitted to operate the licensed saloons.

P. A. How do the friends of license assure the people of any locality that such is the character of the applicant?

A. of L. The statutes require that the good moral character of the applicant shall be attested by the testimony of two good freeholders, each worth, at least, two thousand dollars.

P. A. Do the friends and promotors of license follow a similar method, in an attempt to satisfy the citizens of a locality, as to the good moral character of persons engaging in other lines of business?

A. of L. I never heard of such a thing.

P. A. For what purpose is the license granted?

A. of L. It authorizes the applicant to sell intoxicating liquor, at retail, as a beverage.

P. A. Is the retail liquor traffic a legitimate business when licensed?

A. of L. I think it is quite generally so regarded.

P. A. Is it lawful for a person to engage in the retail liquor traffic, without first securing a license from the State or municipality?

A. of L. I think not.

P. A. Is it lawful for a person to engage in the retail meat business, without first securing a license from the State or municipality?

A. of L. Certainly it is; but the retail liquor traffic is not like any other business.

P. A. How are retail liquor houses that presume to sell without license designated?

A. of L. They are familiarly spoken of as "speak-easies," "joints," "holes-in-the-wall," etc.; whilst individuals, who, in a still more secret way, smuggle the beverage, are often called "boot-leggers."

P. A. Would it be appropriate, for the friends and promoters of license, to designate other kinds of business by similar names, when the operators thereof presume to sell without license?

A. of L. I think not; but I believe every person is familiar with the fact that the retail liquor traffic is not like any other business.

P. A. Why do the friends and promoters of license, by explicit restrictions, which they have placed in the text of the measures enacted for the regulating of the retail liquor traffic, prohibit the saloon from locating nearer than two hundred, three hundred, or four hundred feet from a church or school in cities, or within one half-mile of the same in country places?

A. of L. I presume the restrictions referred to were placed in the text of the laws to prevent the saloon from becoming a source of annoyance, offense, or inconvenience to the church or school.

P. A. Do you consider the word "nuisance" an equivalent for the following phrase: "that which annoys, offends, and inconveniences people?"

A. of L. I humbly beg the court not to press that question.

CHIEF JUSTICE. The question is relevant, and the prosecuting attorney is at liberty to repeat the same.

P. A. Do you regard the word "nuisance" as an equivalent for the phrase, "that which annoys, offends, and inconveniences people"?

A. of L. I do.

P. A. Do the friends and promoters of license designate a grocery store by such a term, when it is located nearer than two hundred, three hundred,

or four hundred feet from a church or school in cities, or nearer than one-half mile from the same in country places?

A. of L. They do not. They call it a grocery store. It is always a grocery store, no matter where it be located.

P. A. Will you please inform the court why the unlicensed grocery store does not become a public nuisance, when located within any of the prescribed distances from a church or school?

A. of L. Because the grocery store does not "annoy, offend, and inconvenience people." But I wish to emphasize the fact that the saloon is not like any other business. This being once rightly understood, to my mind, would seem to justify special and peculiar legislation for the regulating of the saloon, both as to location and the manner of operating the same.

P. A. Does the licensed saloon cease to "annoy, offend, and inconvenience people," when located outside any one of the prescribed distances from a church or school?

A. of L. Not exactly; but the licensed saloon is permitted to locate outside certain of the prescribed distances from a church or school, by the consent of a majority of the freeholders on both sides of the street.

P. A. Does such action on the part of the freeholders relieve the situation?

A. of L. I do not see that it does.

P. A. Our attention was directed a short time ago to the matter of speak-easies. How do the proprietors of speak-easies usually operate their business?

A. of L. With as much precaution as that with which horse-thieves steal horses.

P. A. Why do States and municipalities prohibit the operators of speak-easies from selling intoxicating liquor as a beverage?

A. of L. Because the operators of speak-easies are unwilling to receive the general government, the State and the municipality into partnership, and to share with them the profits.

P. A. What would you advise the State to do with the operators of speak-easies?

A. of L. Denounce them as anarchists, and disfranchise them forever.

P. A. Wherein do licensed saloons differ from unlicensed saloons, which are commonly called "speak-easies"?

A. of L. The proprietor of the licensed saloon receives the general government, the State and municipality into partnership, inasmuch as they are made to share in the profits; while the proprietor of the speak-easy appropriates all the profits unto himself.

P. A. What is the difference between speak-easy whiskey and licensed rum, as to their effects?

A. of L. They are both alike, as to their effects.

P. A. Is the proprietor of the licensed saloon permitted to sell to every person, when his place of business is located at the proper distance from a church or school?

A. of L. He is not.

P. A. To whom is he permitted to sell, and for what portion of the year?

A. of L. To *compos mentis* seniors only; and three hundred and twelve days in the year only; and while they are occasional or frequent drinkers only. When they become habitual drunkards, the bartender is permitted to sell to them no longer.

P. A. To what particular classes of persons are saloon-keepers prohibited from selling; and for what portion of the year are the prohibitory restrictions operative.

A. of L. Saloon-keepers are prohibited from selling to idiots, insane persons, Indians, minors, and habitual drunkards. The prohibitory restrictions relating to these classes cover the entire year.

P. A. Are the above restrictions, relating to the classes enumerated, not equivalent to that peculiar form of legislation, which the friends and promotors of license denounce as, "Kansas pro-

hibition," "sumptuary legislation," and "unjust interference with men's liberty"?

A. of L. I presume it is.

P. A. Who then are its authors?

A. of L. All those persons in the State and nation who in any way participate in the enactment of the license measures.

P. A. If the restrictive features of the license measures, relating to certain classes all the year, and to the rest of mankind a creditable part of the year, be strictly enforced, does it not actually commit the friends of license to the principle of prohibition, which they habitually denounce as "sumptuary legislation," and "unjust interference with men's liberty."

A. of L. I must confess it does. But it seems to me that the restrictive features of the license measures were embodied in the text of the law merely for political effect. The operators of the saloons have come to feel that the prohibitory restrictions were never designed to be strictly enforced. Our shrewd politicians may have intended the prohibitory restrictions of the license measures as an opiate for Christian consciences, to hold them in allegiance to the dominant license parties, rather than for the protection of the above-named classes.

P. A. Is it true, then, that the friends and

promoters of license, who all the time claim to stand in opposition to the principle of prohibition, which they bitterly denounce as "sumptuary legislation," and "unjust interference with men's liberty," have actually adopted the principle of prohibition—"sumptuary legislation," and "unjust interference with men's liberty"—for the protection of certain classes of persons covering the entire year, and for all the rest of mankind a creditable part of the year?

A. of L. Ostensibly it is true; but as I have already stated, I am of the opinion that the restrictive or prohibitory features of the license measures were intended more as an opiate for Christian consciences, than as a means for the protection of the classes named. The question as it is put, however, seems strange to an advocate of license. I never heard it stated that way before.

P. A. How do the friends of license make known their desire for this peculiar form of legislation?

A. of L. By explicit prohibitory restrictions, which they have placed in the text of the various license measures.

P. A. Will you please inform the court, in a clearer light, if possible, how the friends and promoters of license speak in reference to the

measures which they have enacted for the regulating of the retail liquor traffic?

A. of L. The enactments which they have chosen for the regulating of the retail liquor traffic are continually spoken of as, "opposition to sumptuary legislation," "all-wise, wholesome and well-directed temperance measures," etc.

P. A. If we accept these definitions as correct, are we not justifiable then in asserting that the friends of license approve of that which they are accustomed to denounce as "sumptuary legislation," and "unjust interference with men's liberty," as of paramount importance for the protection of certain classes covering the entire year, and for the protection of all the people a creditable part of the year?

A. of L. Presented in the light in which you have placed the matter, I presume we would be justifiable in arriving at such a conclusion. It forms a strange anomaly, at least, which I confess I am unable to explain.

P. A. I will now ask you to tell the court the real reasons why the friends of license have enacted prohibition—"sumptuary legislation," "unjust interference with men's liberty"—for certain classes all the year, and for all the people a creditable part of the year?

A. of L. We may assume for their protection.

P. A. Whom do they thus protect first of all?

A. of L. The idiot. There is an explicit prohibitory restriction in the text of the various license measures, forbidding the retail liquor men to sell to the idiot. This commendable restriction covers the entire year.

P. A. Who is an idiot?

A. of L. The born fool.

P. A. Is it true then that the friends and promoters of license have adopted the principle of prohibition, which they denounce as "sumptuary legislation," and "unjust interference with men's liberty," for the protection of the idiot, covering the entire year?

A. of L. It is true.

P. A. What reason could the friends and promoters of license have had in mind for resorting to such legislation for the idiot?

A. of L. They must have had in mind the fact that the idiot or born fool is a feeble-minded person, and is in such constant need of a custodian, that the principle of prohibition is better suited to protect him than the principle of license.

P. A. Would it not be well to prohibit other business men from selling to the idiot? Why not enact a uniform law, prohibiting persons from selling meat, sugar, or clothing and other kinds of merchandise to the idiot or born fool?

A. of L. I am under the necessity of answering this question by repeating my answer to a former question. It is not necessary to prohibit persons in all lines of business from selling to the idiot, for the reason that the retail liquor traffic is not like any other business.

P. A. Why do the friends and promoters of license first openly declare themselves in opposition to the principle of prohibition, which they denounce as "sumptuary legislation," and "unjust interference with men's liberty," and afterward embody the same principle in the text of the various license measures for the protection of the insane person?

A. of L. They may have had in mind the fact that if it requires one person all the time to hold an insane person in safe custody when he is sober, it would no doubt require more persons to prevent him from annoying people if he was intoxicated.

P. A. Why do the friends of license—the enemies of prohibition—adopt the principle of prohibition for the protection of the Indian, covering the entire year?

A. of L. I presume I would be justifiable in saying that the friends of license must have been well satisfied, in their minds, that the principle of prohibition, when carefully applied and enforced,

is better suited to the protection of the Indian, than the principle of license. At any rate, I will venture this as their reason for inserting the principle of prohibition in the text of the law for the protection of the Indian, rather than the principle of license.

P. A. Why do the friends and promoters of license denounce the principle of prohibition as "sumptuary legislation," and "unjust interference with men's liberty," and everywhere adopt the same for minors?

A. of L. For their protection, no doubt. It seems to be the only means to effectually shield both parents and children from being annoyed by the retail liquor traffic.

P. A. How long do they thus claim to protect our boys and girls?

A. of L. Until they shall have arrived at their majority.

P. A. Have the friends of license, in any manner, adopted the principle of prohibition—"sumptuary legislation," and "unjust interference with men's liberty," for the regular customers of the licensed saloons?

A. of L. I cannot see very clearly that they have?

P. A. Have they not adopted the principle of

prohibition—"sumptuary legislation," and "unjust interference with men's liberty," for the protection of the habitual drunkard?

A. of L. They claim to prohibit the retail liquor men from selling to the habitual drunkard.

P. A. Do you not see that you might be able to demonstrate to the court that the habitual drunkard is the regular customer of the saloon?

A. of L. I do not see the process very clearly by which to demonstrate that fact.

P. A. If the licensed saloon has any regular customer at all, don't you think the habitual drunkard must be quite as regular as any?

A. of L. I presume he is, at least up to the time when the retail liquor men are prohibited from selling to him.

P. A. If you were to use a synonym for the term, "habitual drunkard," how would you express yourself?

A. of L. I would call him a manufactured fool.

P. A. Is it true that the friends and promoters of license have adopted the principle of prohibition—"sumptuary legislation," and "unjust interference with men's liberty," for every person?

A. of L. I presume they have, a part of the time at least.

P. A. Wherein then lies the difference between the principle of prohibition—"sumptuary legislation," and "unjust interference with men's liberty," and license—"all wise, wholesome and well-directed temperance measures"?

A. of L. I humbly beg the court not to press that question.

CHIEF JUSTICE. The court will waive the question.

P. A. Wherein then do prohibitionists and license advocates differ?

A. of L. Prohibitionists favor the principle of prohibition for all the people all the time; while license advocates favor the same for certain classes all the time, and for the rest of mankind a creditable part of the time.

P. A. (To the Chief Justice.) This closes the cross-examination of the chief advocate of license. I trust your honor is satisfied not only with my candor in propounding the questions, but also with the straightforward manner in which the chief advocate of license has attempted to answer them. I have no desire to question the witness further. Therefore, after briefly summing up the evidence, I shall be ready to proceed with the closing argument in the prosecution.

SECTION III.

Summing up the Evidence.

I gather from the cross-examination of the chief advocate of license, and the leading witness in the defense, the following evidence: That the Republican and Democratic parties, in their national organizations, continued to favor the licensing of the liquor traffic; that saloon-keepers, gamblers, operators of brothels, anarchists, and many professing Christians, in the joint use of the ballot, encouraged said parties to cling to the license policy; that the above-named parties continued to denounce the principle of prohibition as, "sumptuary legislation," and "unjust interference with men's liberty"; that they upheld the principle of license, as "opposition to sumptuary legislation," and as "all-wise, wholesome and well-directed temperance measures"; that prohibitionists had pledged themselves to destroy the saloon; that the general government continued to encourage the manufacture of intoxicating liquor, because it was made senior partner in the business and received a part of the profits in an internal revenue; that the several States encouraged the license policy, because they too were made partners in the business and received a share of the profits; that municipalities favored the multi-

plication of saloons, because they received a large revenue from each saloon, and the more saloons, the greater their share of the profits; that saloon-keepers, gamblers, operators of brothels, anarchists, and many professing Christians continued to favor the plan of license, because the characters first mentioned knew that their various occupations could only grow and flourish in the midst of the profuse use of intoxicating drinks; moreover, many professing Christians tried to persuade themselves that the saloon could never be destroyed; that the prohibitory or restrictive features of the license measures had rendered the business respectable; and that the revenue derived from the business had lessened their taxes; that according to the measures enacted for the regulating of the traffic, persons of good moral character only are authorized to engage in the retail liquor traffic; that the character of the applicant shall be established to the satisfaction of the license court, by the testimony of two good freeholders, each worth at least two thousand dollars; that the friends of license do not follow a similar method in discovering the good moral character of persons engaging in other lines of business; that the license granted authorizes the proprietor of the saloon to sell intoxicating liquor as a beverage; that the traffic is a legitimate

business when licensed; that the licensed saloon is not like any other business; that the licensed saloon is prohibited from locating within two hundred, three hundred or four hundred feet from a church or school in cities, or within one-half mile from the same in country places; that this arrangement is designed to prevent the saloon from "annoying, offending and inconveniencing" the church or school; that the word nuisance is the equivalent for the phrase, "that which annoys, offends and inconveniences"; that other kinds of business that presume to sell with or without license do not "annoy, offend and inconvenience" people, even when located next door to a church or school; that the licensed saloon continues to "annoy, offend and inconvenience" people, when located outside any of the prescribed distances from a church or school; that the saloon is permitted to locate outside certain of the prescribed distances from a church or school, by consent of a majority of the freeholders on both sides of the street; that such action on the part of the freeholders does not cause the licensed saloon to cease to "annoy, offend and inconvenience" people; that the proprietors of speak-easies, usually operate their business with as great precaution as that with which horse-thieves steal horses; that the proprietors of speak-easies are

prohibited from selling because of their unwillingness to share the profits with the general government, the State and the municipality; that the proprietors of speak-easies should be denounced as anarchists and be disfranchised forever; that the licensed saloon differs from the speak-easy, in that the proprietor thereof receives the general government, the State and municipality into partnership and shares with them the profits, while the proprietor of the speak-easy appropriates all the profits unto himself; that licensed rum and speak-easy whiskey are alike as to their effects; that the proprietor of the licensed saloon is not permitted to sell to every person; that by a series of prohibitory restrictions the proprietor of the licensed saloon is prohibited from selling to the idiot, the insane person, the Indian, the minor, the habitual drunkard or manufactured fool covering the entire year, and that he is prohibited from selling to any person fifty-four days in the year; that this is "sumptuary legislation," and "unjust interference with the liberty of the classes enumerated and for the time designated"; that prohibitionists favor the principle of prohibition or "sumptuary legislation" for every person covering the entire year, and that the friends of license favor the principle of prohibition for certain classes covering the entire year, and for every person

fifty-four days in the year, and at the same time they bitterly denounce the same as "sumptuary legislation," and "unjust interference with men's liberty"; that that which is good for the protection of certain classes all the year, and for all the people fifty-four days in the year, should be good for the protection of all the people three hundred and sixty-five days in the year.

SECTION IV.

Closing Argument in the Prosecution. The Saloon a Public Nuisance.

PROSECUTING ATTORNEY. I count myself happy in being permitted to address the Supreme Bench on this momentous occasion. I am convinced that no other case so far-reaching, and of such paramount importance, is likely to come under the jurisdiction of the Supreme Court during the period of many generations. I tremble with a sense of awe at the thought of my responsibility in presenting the closing argument in such a case.

From the evidence at hand I wish to prove that the saloon is a public nuisance, both in the legal and in the moral sense; and that to authorize or license the same is unconstitutional.

This distinguished tribunal will constantly bear in mind during the discussion, that a public nuisance, as defined by all standard authorities, as defined by the King's Bench of England, and as defined in past decisions of the Supreme Court of the United States, is, "that which, either in a legal or in a moral sense, annoys, offends and inconveniences any great number of persons in a locality." I would also call the attention of the court to the fact that when once a public nuisance has been discovered, there is no recognized principle at law which does not provide for its immediate abatement. In other words, it is contrary to all law for an organized government to authorize or license a public nuisance. In final action in all matters of jurisprudence we should never lose sight of the well-recognized principle in constitutional law: "that whatever is enacted into statutory law should, when executed, administered and enforced, tend to promote either the educational, the industrial, or the moral and social welfare of all the people." Any statutory enactment which is found to conflict with this directory principle, in any particular, should be regarded as law in name only, and at the first opportunity, should be set aside as unconstitutional. The above expression of truth is in perfect accord with Blackstone's definition of law,

viz: "Law is that which is enacted by the supreme power of the State, commending that which is right and prohibiting that which is wrong"; for, "That is not law which controverts the law of God."

The chief advocate of license and the leading witness in the defense, testified that Republicans and Democrats, in their national organizations, had persistently continued to favor the licensing of the retail liquor traffic. This was true especially in the past several decades. It appears that the great leaders in the parties named assumed the embarrassing position, not from principle, nor from the consciousness of right, but purely for political effect, that they might attain to position and enjoy the spoils of office through the corrupting influence of this mighty balance of power.

The many prohibitory restrictions, which the perpetrators of license were compelled to insert in the text of the various measures enacted for the regulating of the retail liquor traffic, plainly indicate that they were all the time conscious that they were dealing with a public nuisance. The leaders in the dominant parties manifested for generations their unwillingness to appoint a Congressional Commission to enquire into the ruinous effects of the traffic in strong drink upon society and upon business. They indicated that

they would rather seek to promote the financial and lucrative interests of the dire traffic than seek its public exposure. They were ever ready to worship at its Bacchanalian shrine, and to vie with each other in most debasing concessions to its infamous demands, in order that they might continue to share its patronage at the polls. This accounts for Levi P. Morton's saloon; for Benjamin Harrison's black record; for James G. Blaine's whiskey circular; for Grover Cleveland's subsidy; for John G. Carlisle's exaltation; and for Wall Street's patronage. All this would plainly indicate that the licensed saloon is a public nuisance, both in the legal and in the moral sense.

The leading witness in the defence testified, "that saloon-keepers, gamblers, operators of brothels, anarchists, and many professing Christians, continued in the joint use of the ballot to support license and license parties. That the business of saloon-keepers, gamblers, operators of brothels and anarchists, could only be expected to grow and flourish in the midst of the profuse use of intoxicating drinks." We are not surprised at the friendly attitude of such characters to license and to license parties. Every time the retail liquor man secures a license, it means a year's lease of life to his business, and by no less authority than the

affixing thereto of the great seal of State. The saloon itself is not only dependent for its existence upon the matter of the securing of a license, but its allies—the gambling den and the brothel—are thus encouraged and entrenched. It can only be expected that all such characters will confederate to sustain license and license parties as necessary to their own existence. The three evils have not only conspired so to do, but, being the devil's triplets, such conspiracy is natural, logical, and to be expected. These three constitute the schools of anarchy, where persons are graduated to break every law of God and man. On every election occasion, the operators of these institutions of iniquity, feigning patriotism, are ready to shout, "O license and license parties, live forever!" They understand that so long as the dominant license parties are in possession of the reins of government, their hellish trades will grow and continue to flourish. The three evils are wedded; they go hand-in-hand; they have formed a triple alliance; they are of one compound; they are inseparably united, and have resolved to "live or die, sink or swim, survive or perish" together. They spring from one great cause and their effects are, and must continue to be, "woe, sorrow, contentions, babblings, wounds without cause, and redness of eyes."

"United they stand, divided they fall":
And just as the one votes, so vote they all.

In this connection we argue that the saloon is a public nuisance, because it has succeeded in compromizing many professing Christians, in the joint use of the ballot with the above-named despicable characters, in support of license and license parties. The witness testified, "that many of the professing Christians, by their influence and their ballots, continued to support license and license parties." Their reason for so doing was not everywhere the same. In the North the Republican party was the "grand old party," and they continued to support it; while in the South, the Democratic party was the "grand old party," and they continued to support it. Many professing Christians tried to persuade themselves "that the saloon could never be destroyed," notwithstanding the fact that God had promised to destroy the works of the devil. They delighted to soothe their consciences with the plea, "that the national, State and municipal revenue derived from the business had lessened their taxes," and "that the prohibitory or restrictive features of the various license measures had rendered the business respectable." In this particular the great adversary was subtle: for many seemingly candid persons were deceived. Yet the leading witness

in the defense seemed to be of the opinion, that such professors of religion were really more closely wedded to their "idol parties," than to their wives, their children, their Church and their God. They appeared to sin against light and knowledge, forgetting the Scipture which says: "For if we sin wilfully after that we have received the knowledge of the truth, there remaineth no more sacrifice for sin, but a certain fearful looking for of judgment and fiery indignation, which shall devour the adversaries." This peculiar type of professing Christians did not seem to comprehend that they had joined the ranks of saloon-keepers, gamblers, operators of brothels and anarchists in perpetuating a common cause. They did not seem to realize that they had actually become saloon-keepers themselves. They appeared to be unable to comprehend, that in the sight of God, there are two classes of saloon-keepers, viz.: first-class independent; and second-class dependent. The first-class independent saloon-keeper—is the man who continually votes to keep the saloon on the license plan. The second-class dependent saloon-keeper—is the poor bartender who operates the saloon, the first-class independent saloon-keeper votes to keep. The second-class dependent saloon-keeper continually trembles, lest there be not a sufficient number of the professing Christians

— first-class independent saloon-keepers — who will continue to vote with saloon-keepers, gamblers, operators of brothels and anarchists, to authorize the licensed saloon he desires to run. If the licensed dram-shop is to be perpetuated, I trust we shall be able immediately, all the time and everywhere, in oral address, in written manuscript and in print, to publish and emphasize the importance of our first-class independent saloon-keepers; as well as to expose to clear and comprehensive view, the subordinate position of our second-class saloon-keepers. When one of each type of our saloon-keepers meet at the polls to cast an exactly similar ballot, it reminds me of the sweet ballad which certain one of our poets did sing:

The Twin Ballots.

Along in November when chill was the weather,
Two ballots were cast in a box together,
Two ballots were cast in together;
They nestled up close like brother to brother,
You couldn't tell one of the votes from the other,
You couldn't tell one from the other.

CHORUS.

They were both rum votes,
And sanctioned the license plan;
But one was cast by a jolly old brewer,
And one by a Sunday-school man.

We argue, therefore, that the denunciation of the principle of prohibition as "sumptuary legislation" and "unjust interference with men's liberty," and the lauding of the principle of license as "all-wise, wholesome and well-directed temperance measures," on the part of the friends of license, is the strongest inferential proof that the saloon is a public nuisance, both in the legal and in the moral sense.

The chief advocate of license and the leading witness in the defense testified, that the dominant license parties continued to denounce the principle of prohibition as "sumptuary legislation" and "unjust interference with men's liberty," while they lauded the opposite principle of license as "all-wise, wholesome and well-directed temperance measures." We will accept the foregoing definitions of the two opposite principles as correct, and we will cling to them tenaciously for the sake of argument.

In 1882 Kansas adopted constitutional prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—for all her citizens covering the entire year. The principle of license—"opposition to sumptuary legislation," "all-wise, wholesome and well-directed temperance measures"—was ignominiously rejected, and the lamentation was heard from ocean to ocean: "Poor deluded Kansas." Had Kansas been will-

ing to have adopted such legislation for certain classes covering the entire year, and for all her people a creditable part of the year; then first and second-class saloon-keepers, gamblers, operators of brothels, anarchists, and many of the high license preachers and professing Christians might have been able to have suppressed their indignation, and to have forever held their peace.

Again we argue, that the persistent warfare of Prohibitionists, including many of our nobler citizens, against the liquor traffic, plainly indicates that the saloon is a public nuisance.

Prohibitionists have been made to feel that two hundred and fifty thousand licensed dram-shops, operated by five hundred thousand vulgar bartenders, are sufficient, both in number and character, either in a direct or indirect manner, to "annoy, offend and inconvenience" every man, woman and child in all our broad domain.

Will this lofty tribunal require me in protracted argument to consume valuable time in an attempt to prove the saloon to be a public nuisance, when the fact seems to be cognizant to every candid mind? Is any argument necessary to prove that the saloon really does "annoy, offend and inconvenience people?"

As the argument progresses, I am confident that I shall be able to establish to the entire

satisfaction of the court that the saloon is branded as a public nuisance, not only by the consensus of public opinion, but that the friends and perpetrators of license were all the time conscious that they had been dealing with a public nuisance.

Each and every prohibitory restriction which the friends and promoters of license have been compelled to insert in the text of the measures which they have enacted for the regulating of the retail liquor traffic, is proof positive of the foregoing statement. Each and every prohibitory restriction found in the text of the various measures enacted for the regulating of the traffic is a concession on the part of the friends of license that they prefer the principle of prohibition to the principle of license, for the protection of the person or class of persons in whose interest the restriction was inserted. If not, why should the friends of license, of their own volition, make the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—supercede the principle of license—"all-wise, wholesome and well-directed temperance measures"—in the interests of the classes named?

Again we argue that the saloon is a public nuisance, because it could not obtain the sanction of law if it did not receive the general government, the State and the municipality into partnership.

The leading witness in the defense testified "that the general government, many of the States and municipalities, continued to favor the plan of license and the multiplication of saloons, and that they actually encouraged the extensive manufacture and sale of strong drink, because they had become partners in the business, inasmuch as they were made to share in the profits."

This brings the general government, the State government and the municipal government into a peculiar covenant relationship in fulfilment of the prophecy of Isaiah, viz: "Because ye have said, We have made a covenant with death; and with hell are we at agreement. When the overflowing scourge shall pass through, it shall not come unto us, for we have made lies our refuge, and under falsehood have we hid ourselves."

The rum-power has taken such hold upon the dominant license parties that it is able now to say unto the general government, Let me live; I have one dollar and ten cents a gallon on distilled spirits in times of peace (which, under bitter protest, I will permit to be doubled in time of war) for thee. It is able to say unto the State, Let me live; I have a lucrative tax for thee. It is able to say unto the municipality, Let me live; I have three hundred, five huudred or one thousand dollars per annum for thee. It is able to say unto the

dominant license parties, Let me live; I have revenue, patronage, exaltation and the spoils of office to barter for the money, and the bodies and souls of men.

The dominant license parties say, We are all agreed. Let the general government have the internal revenue; let the State have a lucrative tax; let the municipality have her stipulated fee from each saloon; let the great leaders in the dominant license parties have patronage, exaltation and the spoils of office; and we are gleefully ready to ratify the "covenant with death and the agreement with hell," as the parties of the first part; that the two hundred and fifty thousand licensed dram-shops shall be authorized to glean from the drinking classes, one billion two hundred million dollars in cash each year, thereby guaranteeing to death the bodies of one hundred thousand habitual drunkards each year, inviting hell as her part of the contract to claim their souls; thus entirely satisfying the parties of the second part. Thus the parties of the first and second parts have ratified the covenant and it stands to-day, notwithstanding that a very large percentage of the citizens of the State and nation have been irreparably damaged in their health, their morals and in their industrial life.

The covenant stands, while it is the prevalent opinion that the licensed dram-shops are the rifest schools of anarchy. The covenant stands in opposition to the common opinion that the traffic in strong drink creates disease, and results in idleness, misery, pauperism and crime. "Therefore thus saith the Lord God: Behold I lay in Zion for a foundation a stone, a tried stone, a precious corner-stone, a sure foundation; he that believeth shall not make haste. Judgment also will I lay to the line, and righteousness to the plummet; and the hail shall sweep away the refuge of lies, and the waters shall overflow the hiding place. And your covenant with death shall be disannulled, and your agreement with hell shall not stand; when the overflowing scourge shall pass through, then ye shall be trodden down by it." "Woe unto him that buildeth a town with blood, and establisheth a city by iniquity!" "Woe unto him that giveth his neighbor drink, that puttest thy bottle to him, and makest him drunken also, that thou mayest look on their nakedness."

Honorable Sirs: Surely that constitutes a public nuisance, which contaminates every community in which it exists with the viris of death, and breeds the most debasing evils which fallen spirits can invent.

Again we argue that the saloon is a public nuisance, because it corrupts and destroys the moral character of the men who operate it.

The leading witness in the defense testified that the friends of license had placed a principle in the text of the various license measures requiring "that persons of good moral character only be permitted to operate the licensed saloon ; that the character of the applicant shall be established to the satisfaction of the license court by the testimony of two good freeholders, each worth at least two thousand dollars." It is estimated that there are two hundred and fifty thousand licensed dramshops in our country, operated by more than five hundred thousand bartenders. If persons of good moral character only be permitted to operate the saloons, it would seem in a threatening manner to embarrass our churches. Does it not seem that the ever-increasing number of saloons, in order to find a sufficient number of bartenders of good moral character to operate the same, might be called upon in the near future to draft the elders and deacons of the churches into the service of the retail liquor business, thereby leaving many of our churches without an organization? The only security to the churches, in this particular, seems to lie in the fact that this particular requirement in the text of the various license measures, like

all other restrictions, was never intended to be strictly observed. This, at least, seems to have been the opinion of the leading witness in the defense, as was clearly brought out in the cross-examination. It is plain to every careful observer, that those who operate the saloons as a class, fear not God, neither do they regard man. As a class, they are blasphemous Sabbath-breakers, gamblers, whore-mongers, adulterers, covetous extortioners, and like unto the great adversary himself, lovers and makers of lies. Notwithstanding that such is the general character of those who operate the saloons, the license court seems to have but little difficulty in finding two good freeholders, each worth at least two thousand dollars, who are willing to testify that each applicant is possessor of a good moral character ; and thus the churches escape disorganization.

Again we argue that the saloon is a public nuisance, because it corrupts the government, which, by legalizing the traffic, becomes responsible for the direful evils that flow therefrom.

The leading witness in the defense testified, "that the saloon is licensed to sell intoxicating liquor as a beverage ; that it is a legitimate business when licensed, illegitimate when not licensed ; that unlicensed saloons are called 'speak-easies', 'joints', 'holes-in-the-wall,' and such like expres-

sions; and that persons who in a still more secret way smuggle the beverage are often called 'bootleggers'; that such characters should be denounced as anarchists, and be disfranchised forever."

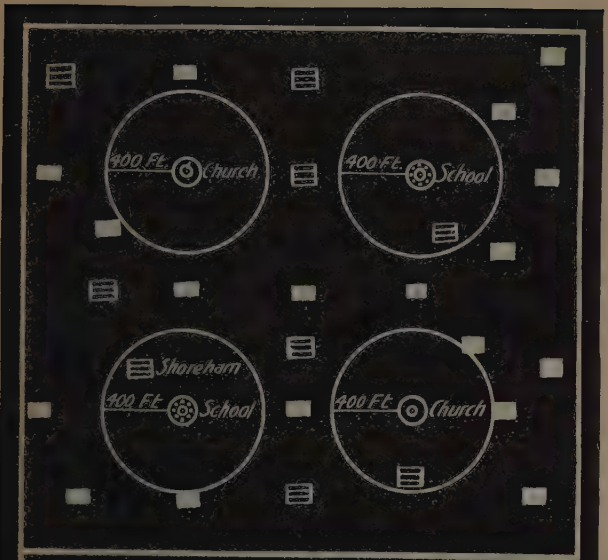
We argue that a business which results in evil, in evil only, and that continually, is a public nuisance, whether it be licensed or unlicensed. We argue that that which authorizes evil, is law in name only. Law in fact must commend right by prohibiting wrong. We maintain that the principle of prohibition commends right, and is law in fact, even though it be denounced by the friends of license as "sumptuary legislation" and "unjust interference with men's liberty." A business which results in evil effects only can never be justified, even though it be authorized by the affixing of the great seal of State. A law which commends right, when executed, administered and enforced, must of necessity prohibit wrong. As we have already stated, that only is law which tends to promote either the educational, the industrial, or the moral and social welfare of the people. We are of the opinion that the Christian man should never be required to assume an official position, where his oath of office will require him to administer a statutory measure in direct conflict with the law of Christ. A statute which conflicts with the law of Christ should be denounced by all Christian citizens, as law in name only.

The ruinous effects of the liquor sold, both in the licensed and in the unlicensed saloons, are everywhere plainly visible. If the bartender who operates a speak-easy this year should be denounced as an anarchist, and be disfranchised forever, how does he, upon obtaining a license, become a person of good moral character and worthy of the right of franchise, when he runs the same place next year as a licensed saloon? Is he not the same person, operating the same business in the same place, and does he not sell the same brands of intoxicating drinks as before? Last year the government officials denounced him as a sneaking anarchist, because he appropriated all the speak-easy profits unto himself. This year the same officials laud him as a citizen of good moral character, because he is willing now to share the profits of the licensed saloon with the State and the municipality. Last year, as the leading witness in the defense did testify, "he conducted his speak-easy business with as great precaution as that with which horse-thieves steal horses"; this year, with the cynic condonence of the license court, he conducts the same place behind glazed windows and screened doors. But now the general government, the State and the municipal governments are made to share in the profits and are satisfied.

Again we argue that the friends and promoters of license plainly indicate that the saloon is a public nuisance, because of the peculiar restrictions which they have placed in the text of the various license measures relating to the distances at which the saloon must be located from a church or school.

The chief advocate of license and the leading witness in the defense testified "that the friends and promoters of license had enacted a series of prohibitory or sumptuary restrictions, forbidding the proprietor of the licensed saloon from locating his place of business nearer than two hundred, three hundred or four hundred feet from a church or school in cities, or nearer than one-half mile from the same in country places; the distance to be regulated in each case according to the moral sense of the law-makers in each State."

The following diagram will help to demonstrate the moral sense of the Congress of the United States in passing an act and of the President in signing it, for the protection of the churches and schools in Washington, D. C.



SECTIONAL MAP of Washington, D.C. showing according to Act of Congress, the prescribed distances of First Class and Ordinary Saloons from Churches & Schools.
Churches are represented thus ⊙
Schools are represented thus ⊙
1st Class Saloons are represented thus ▤
Ordinary Saloons are represented thus ■

Each circle represents a Prohibition district—according to an Act of Congress, as signed by the President—for the protection of the geometrical center, which in each case represents either a church or a school. According to the original intention of this Act of Congress, all licensed saloons were required to locate outside of, up to or on the line, but never inside the line of the circumference of any of the prescribed circular areas. This restriction was regarded as the law for Washington, D. C., until Levi P. Morton, the then acting Vice-President of the United States, either unwittingly, or in open defiance of the law, built a first-class hotel (the Shoreham), containing a first-class saloon, with a first-class bar, eighty feet long, from behind which forty-four brands of intoxicating drinks were sold.

When the news reached Congress that the Vice-President of the United States had violated the law, instead of arresting and convicting the criminal, Congress hastily assembled and passed an amendment to the law, permitting the locating of a first-class hotel, with a first-class saloon, with a first-class bar, within the circumference of the circular area; while a saloon without a first-class hotel built over it must not be located inside the circumference of any of the prohibition circular areas. The white-colored marks outside of the

circumferences of the circular areas represent the licensed saloons in Washington, D. C., which have not a first-class hotel built over them, while the marks inside the circumferences aside from the centers represent the licensed saloons which have a first-class hotel built over them.

This diagram indicates clearly the wisdom of Congress, as approved by the signature of the President of the United States, in an attempt to protect the church or school from being "annoyed, offended and inconvenienced" by the licensed saloon. The different States have enacted similar laws for the protection of churches and schools, only the diameters of the circular prohibitory areas seem to vary in measurement according to the moral sense of the different Legislatures.

I should be delighted to be possessor of a map of the United States which would clearly indicate by its hundreds of thousands of prohibitory circular areas of various dimensions, expressing the "all-wise, wholesome and well-directed temperance measures" of Congress and of our several State Legislatures, enacted for the protection of our churches and schools.

Again we argue that the friends of license clearly indicate that the saloon is a public nuisance by placing prohibitory or "sumptuary restrictions"

in the text of the various license measures prohibiting the retail liquor men from selling to every person outside, or to any person inside the circumferences of the favored circular areas, having for their geometrical centers churches and schools.

The chief advocate of license and the leading witness in the defense testified, "that the proprietor of the licensed saloon, who had previously paid three hundred, five hundred or one thousand dollars, for a year's lease of life to his business, when located with due respect to the geometrical centers of the favored circular areas, is prohibited by sumptuary restrictions from selling to every person"; "that the proprietor of almost any other kind of business might locate next door to a church or school, and be permitted to sell to any person without license"; and "that the reason for such discrimination is due to the fact that the saloon is not like any other business."

I cannot but regard this particular restriction of the license measures as an aggravated form of "class legislation." It places a restriction upon the retail liquor traffic, which no body of sane men would for a moment think of placing upon a legitimate business. It seems to strain almost to the breaking point every righteous and equitable principle at law. It furnishes a splendid exibition of the fallacious opposition of the friends of license

to the principle of prohibition. While the restriction prohibits the retail liquor men from selling to certain classes outside the circumferences of the favored circular areas, having for their geometrical centers churches and schools, it prohibits the ordinary bartender from selling to any person within the circumferences of the same circular areas. While this is the will of congress and of the several State legislatures, as expressed in the various license measures, for the direction of the ordinary bartender, the same authorities authorize the extraordinary bartender to sell to certain classes either outside or inside the circumferences of the favored circular areas.

Again we argue, that the friends and perpetrators of license plainly indicate that the saloon is a public nuisance, in the prohibitory or "sumptuary restriction" which they have placed in the text of the various license measures, forbidding the retail liquor men to sell to the idiot.

The leading witness in the defense testified, "that the proprietor of the licensed saloon, who had previously paid three hundred, five hundred, or one thousand dollars for a year's lease of life to his business, when located two hundred, three hundred, or four hundred feet from a church or school, the logical geometrical center of a favored circular area, by consent of a majority of the free-

holders on both sides of the street, is prohibited from selling to the idiot." This prohibitory or "sumptuary restriction" is designed to cover the entire year, and was placed in the text of the various license measures for the protection of this class of unfortunates. The restriction is not only intended to cover the entire year, but the entire life of each person belonging to this class. It seems passing strange, that the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—according to the mind of the friends of license as expressed in the text of the various license measures, is really better suited to the protection of the idiot than the principle of license. In this particular, the friends of license place the idiot in the same category with minors. In the sight of the law the idiot is to be regarded as a minor as long as he lives. While the friends of the saloon persistently claim that the principle of license is "all-wise, wholesome and well-directed" for certain persons: the principle of prohibition alone is "all-wise, wholesome and well-directed" for the protection and security of the idiot. The leading witness in the defense justified this peculiar restriction on the ground "that the brain of the idiot is so far below the normal size and weight, that it requires much less rum to turn him into the ditch than it does the

compos mentis person." He intimates that that which constitutes "unjust interference with the liberty" of persons in the *compos mentis* state, is just interference with the liberty of persons in the *non compos mentis* state. He seemed to be conscious that if the retail liquor men were permitted to sell intoxicating liquor to an idiot, he would be certain to "annoy, offend and inconvenience" all his friends. The farther we proceed in the argument, the more clearly we will discover the truth of the oft-repeated statement of the chief advocate of license: that the retail liquor traffic is not like any other business. We would justly regard our law-makers as being less wise than the idiot, if they were to pass a similar law, prohibiting men in other lines of business from selling to the idiot. While it is proper—now, under this feature of the license measures, to declare that the idiot, or born fool, is already quite a sufficient burden to society, without his being filled with that which is commonly designated as "forty-rod whiskey," it would then be proper to declare that the idiot, or born fool, is already quite a sufficient burden to society, without his being filled with Orleans sugar, spare-ribs or mutton-chops. I deem it important that the attention of the court be directed now for a little to the study of

A Leading Cause for Idiocy.

The leading scientific men in the medical profession are agreed, "that if the ancestors on the two sides of a house, dating back for two generations, were all habitual drunkards, the children of the third generation would be liable to suffer the awful consequences from the curse of heredity. If the family of the third generation should consist of ten children, it might be expected that at least seven out of the ten would have imposed upon them the burden of some incurable disability." Certain of the number, in all probability, would be born idiots; certain others would be liable to early insanity; still others of the number would be liable to develop ungovernable tendencies to crime; while the whole family might reasonably expect to suffer all through life from an insatiable appetite for narcotics and stimulants. If it were possible in the kind Providence of a beneficent heaven, that three out of the ten should be so blessed of God as to escape the manifold hereditary curses, it would devolve upon the three, in addition to their own burdens, to carry the burdens of the other seven for life, or the burden of the seven would otherwise fall upon the bosom of the charities of the State. Who, among all the advocates of license, will be able to justify the conduct of the State in authorizing an evil so desolating and far-reaching

in its nefarious effects. Men may strive to apologize for the existence of the iniquitous business in the presence of the authorities of earth ; but what excuse will they render to the Judge of all the earth in that great day ? O Honorable Judges ! if it was absolutely impossible to find another accusation against the licensed traffic in strong drink, this one line of argument ought to be sufficient in the sight of God, angels and men to brand the saloon as the most infernal type of a nuisance that men or devils can possibly invent.

Again we argue, that the friends of license plainly indicate that the saloon is a nuisance, inasmuch as they prohibit the bartender from selling to the insane person.

The chief advocate of license and the leading witness in the defense testified "that the friends of license had placed a restriction in the text of the various license measures, prohibiting the saloon-keeper, who had previously paid three hundred, five hundred or one thousand dollars for a year's lease of life to his business, from selling to the insane person."

By such action the promoters of license plainly indicate that the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—is better suited to the protection of the insane person than the principle of license—

"all-wise, wholesome and well-directed temperance measures." This restriction is also intended to cover the entire year, and like the restriction relating to the idiot, places the insane person and the idiot in the same category with minors. The insane person also is in need of a custodian and should be protected as a minor as long as he lives. The reason for this restriction is evident. If the retail liquor men were permitted to sell to an insane person, and if he should become intoxicated, it would result not only in exciting his passions, but would be like pouring oil upon the flames of his insanity. If it requires one person all the time to hold an insane person in safe custody when he is sober, it would no doubt require three persons to guard him with equal security if he was intoxicated. Hence, if one out of every four persons was constantly both insane and intoxicated, it would require the rest of mankind all the time to guard them as prisoners, and the race would soon perish from off the earth, for there would be no persons left to earn bread.

Again we argue that the friends of license plainly indicate that they had been dealing with a nuisance, by placing a prohibitory or "sumptuary restriction" in the text of the various license measures, forbidding the retail liquor man to sell to the Indian.

The leading witness in the defense testified "that the person who had previously paid the stipulated price for a year's lease of life to his business," etc, "is prohibited from selling to the Indian." This also is a concession on the part of the friends of license, that the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—is better suited to the protection of the Indian than the principle of license—"all-wise, wholesome and well-directed temperance measures." This restriction also covers the entire year.

Although common opinion would seem to indicate that the Indian has but few privileges which the white man is bound to respect, yet even the friends of license seem to respect the principle of prohibition, which they denounce as "sumptuary legislation" and "unjust interference with men's liberty," as necessary for the protection of the Indian from the awful ravages of strong drink. He is a savage, you know, and our government has sufficient difficulty in inducing him to continually smoke the pipe of peace when he is sober, without permitting retail liquor men to sell to him. We are convinced of the fact that if the retail liquor men were permitted to fill an Indian with fire-water, he would be liable to fire the whole community—church, school and all.

Again we argue that the friends of license plainly indicate that the saloon is a nuisance, in that they have placed a prohibitory restriction in the text of the various license measures, forbidding the retail liquor men to sell to minors.

The leading witness in the defense testified "that the person who had previously paid three hundred, five hundred or one thousand dollars, for a year's lease of life to his business, is prohibited by the friends of license from selling to minors."

This prohibitory or "sumptuary restriction" was placed in the text of the various license measures by the friends of license, for the protection of minors, and, like the preceding restrictions, was intended to cover the entire year. This is a concession on the part of the friends and promoters of license, that the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—is better suited to the protection of minors than the principle of license—"all wise, wholesome and well-directed temperance measures."

This brings to mind again the peculiar opinion of the perpetrators of license; that "that which constitutes 'unjust interference with the liberty' of *compos mentis* persons in the major state, is 'just interference with the liberty of *compos*

mentis persons in the minor state.'" In other words, while *compos mentis* persons are in the minor state they are to be protected by the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty." But just as soon as they reach the major state they are to be protected by the principle of license —"all-wise, wholesome and well-directed temperance measures," until they become habitual drunkards, when they are placed again under the principle of prohibition for their recovery and restoration.

Thus the friends of license manifest their willingness to protect the boy so long as he is papa's boy, and the girl so long as she is mamma's girl. In other words, they undertake to protect the boy, in the application of the principle of prohibition, until he is twenty years, eleven months, twenty-nine days, twenty-three hours, fifty-nine minutes and fifty-nine seconds old; and the girl, after a similar process of calculation, until after a long and wearisome period of waiting, they are passed by a single clock-tick from the minor into the major state.

Again we argue that the friends of license plainly indicate that the saloon is a public nuisance, in that they have placed a prohibitory restriction in the text of the various license measures, forbidding

the retail liquor men to sell to their regular customers.

The leading witness in the defense testified "that the saloon-keeper who had previously paid three hundred, five hundred or one thousand dollars for a year's lease of life to his business, is prohibited from selling to the habitual drunkard."

In stating the above proposition to be argued, I mentioned "that the retail liquor men were prohibited from selling to their regular customers." I have used the exact synonym for that which the friends and promoters of license have placed in the text of the law. Regular customer is the exact synonym for habitual drunkard; it is habitual drunkard in the text of the law.

(At this juncture the attorney for the defense arose to his feet in a white heat of passion and demanded an explanation.) He said: "Can I trust my ears? Has the attorney in the prosecution lost his reason? We will not suffer to have heaped upon us the calumny of consummate nonsense.

"The attorney in the prosecution has asserted 'that the friends of license have placed a restriction in the text of the various license measures prohibiting the retail liquor men from selling to their regular customers.' I wish to resent the statement, as an unpardonable insult to any sane body of law-makers.

"Does the prosecuting attorney intimate that the friends of license have become a pack of idiots, or a ranting set of fools? I know of no such restriction in the text of any license measure. I beg your superior majesty to stay the argument in the prosecution until there be either an appropriate apology or a satisfactory explanation."

Prosecuting attorney, continuing: I have no apology to offer; but, I trust, the attorney in the defense shall have a satisfactory explanation in due time. I retract not an *iota* from my former setting forth of the truth. I have prepared my argument in exact accordance with the text of the various license measures as enacted by the friends and promoters of license.

The attorney in the defense seems to doubt the accuracy of his hearing. It is my candid opinion that when the truth is once fully discovered it will cause the ears of all the advocates of license to tingle.

It has already been decided by this great tribunal "that this is a Christian nation," and I trust it is, sirs; but if the retail liquor traffic, like the grocery business, or like the boot and shoe business, be a legitimate business, it is not the act of a Christian nation to first tax the proprietor of the saloon three hundred, five hundred or one thousand dollars for a year's lease of life to his

business, then by a series of "all-wise, wholesome and well-directed temperance measures" prohibit him from selling to the idiot, to the insane person, to the Indian, to minors, and last of all—to his regular customers.

If the above restrictions be properly enforced, what is the poor fellow to do? Does he not pay dearly for the privilege of entering into a peculiar business, in a peculiar location, under peculiar circumstances; and for the other privilege of sitting down to do nothing? Am I not justifiable in arriving at the conclusion that the government that will continue to impose such embarrassing conditions upon a legitimate business is worse than barbarous, in this particular at least.

Now as to the demanded explanation. I trust the explanation I am now about to offer may have soothing effect upon the learned, but not well-regulated attorney. The attorney in the defense is a scholar, and will no doubt understand the appropriate use of an exact synonym. A synonym is a word, phrase, clause or sentence that means just the same as another word, phrase, clause or sentence when used instead thereof. When I stated that the friends and promoters of license had placed a prohibitory restriction in the text of the various license measures, forbidding the retail liquor men from selling to their *regular*

customers, I used the exact synonym for habitual drunkards. It is *habitual drunkard* in the text of the various license measures. The retail liquor men are prohibited from selling to the habitual drunkard. The friends of license have adopted the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—for the protection of the habitual drunkard. Now, the habitual drunkard is the man who has the habit of drinking often until he is intoxicated. If he drinks only once in a while, or frequently, every person will call him an occasional or frequent drinker. If he has the habit of drinking very often, say seven times a day—and nine or more times on Sabbath—then every person will call him an habitual drunkard. Now, he who has the habit of drinking so very often must of necessity buy often, and he who buys often is a regular customer anywhere. Hence, *regular customer* is the exact synonym for the term *habitual drunkard*. The friends and promoters of license have adopted the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—for the protection, recovery and restoration of the *habitual drunkard*, the *regular customer*, the *manufactured fool*.

O, Honorable Sirs! I would rather be the idiot,

or born-fool, and be protected by the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—all my life, than the habitual drunkard, the regular customer, the manufactured fool, and be protected afterward. Wouldn't you? The habitual drunkard, regular customer, manufactured fool, is

A Man All Drunk.

He is a graduate from a licensed school of anarchy. His hair is drunk; it is all dishevelled. His eyes are drunk; they are all blood-shot. His nose is drunk; it is all aflame. His mouth is drunk; it is filled with cursing. His tongue is drunk; it is grown so thick that it should rent a larger room. His face is drunk; it is his graduating parchment, the bartender's traveling bulletin. His brain is drunk; he has lost his equilibrium. His hands are drunk; he strikes his wife and child as readily as he does the blank air. His feet are drunk; when he would go forward he goes backward; when he would turn to the right he turns to the left, and when he would turn to the left he turns to the right. Feet down often means head down; standing erect often mean his horizontal measurement in the gutter. He does everything in an inverted order. He

greets his father as his son, and his son as his father; his brother as his uncle, and his uncle as his brother; his daughter as his niece, and his niece as his daughter; his wife as his grandmother, and his grandmother as his wife. When he laughs he cries, and when he cries he laughs. He may be found at the street-corner embracing the lamp-post, and pathetically pleading to be reconciled to his long-divorced wife. His soul is drunk; his heart is become a cage for every foul bird and for every unclean beast. He is financially, physically, intellectually and morally bankrupt. He has ceased to be patriotic, and is utterly disqualified, not only for every form of industrial life, but for every species of military duty. He is the semi-putrid subject for the virulent attack of every pestilential disease.

Thus more than two million five hundred thousand persons are already disqualified by the authority of the State, not only for the successful pursuit of industrial life, but bearing arms in defense of the country.

O, Honorable Sirs! I repeat it: I would rather be the idiot or bornfool, and be protected by the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—all my life, than become the habitual drunkard, regular customer, manufactured fool, and be protected afterward. Wouldn't you?

Finally under this proposition: *The friends of license plainly indicate that the saloon is a nuisance, in that they have placed a prohibitory restriction in the text of the various license measures, forbidding the retail liquor men to sell to any person.*

The chief advocate of license and the leading witness in the defense testified "that the saloon-keeper, whose character had been established to the satisfaction of the license court, by the testimony of two good freeholders, each worth at least two thousand dollars; who had been encouraged to enter into the retail liquor business by the consent of a majority of the freeholders on both sides of the street; after having paid the sum of three hundred, five hundred or one thousand dollars for a year's lease of life to his business, when located two hundred, three hundred or four hundred feet from a church or school, the logical geometrical center of a favored circular area; and after having been informed by the friends and promoters of license, in a series of prohibitory or 'sumptuary restrictions,' that he was not to sell to idiots, to insane persons, to Indians, to minors, nor to habitual drunkards—his regular customers—he is then informed, last of all, that he must not sell to any person."

I perceive that the attorney in the defense is on his feet again. He appears, in his great excitement, to display in his countenance the seven

colors of the rainbow, only with a little more murkiness and a little less brilliancy. This time he appears to be able only to gesticulate and to fill the court-room, as it were, with facial grimaces. Becoming incompetent at oral display, he seems to have become a child again and to have returned to the vigorous use of natural language, as the next best means to make himself to be comprehended by the court. If I may not be permitted to proceed with my argument until we shall have succeeded in soothing him, perhaps the court will pardon me if I should sing to him that sweetest of all lullabies :

> "Backward, turn backward, O time in your flight!
> Make me a child again just for to-night," etc.
> "Rock me to sleep, mother, rock me to sleep."

And now since the good order of the court is once more restored, I wish emphatically to declare that the friends and promoters of license have put themselves on record in the text of the various license measures in the exact manner as stated; which statement caused the attorney in the defense to raise such a commotion.

While the perpetrators of license continued in intense ire to denounce the principle of prohibition as "sumptuary legislation" and "unjust interference with men's liberty," yet at the same time they embodied the same principle in the text of the various license measures, for the protection

of certain classes of persons, as above enumerated, covering the entire year; and for all the rest of mankind covering a creditable part of the year. They made it unlawful, by a series of prohibitory restrictions, for the retail liquor men at any time, or anywhere, to sell to idiots, to insane persons, to Indians, to minors, to habitual drunkards, and fifty-four days in the year—the fifty-four best days in the year, on fifty-two Sabbaths and on two election days—they made it unlawful for the retail liquor men to sell to any person. They must have been guided by the conviction that the principle of prohibition—"sumptuary legislation" and "unjust interference with men's liberty"—is absolutely necessary for the protection of the classes in need of guardian care, three hundred and sixty-five days in the year; and for all the rest of mankind fifty-four days in the year, in order that we might attain to quiet Sabbaths and quiet elections.

If the principle of prohibition is to be regarded as "all-wise, wholesome and well-directed" for the protection of certain classes of persons three hundred and sixty-five days in the year, and for all the people fifty-four days in the year, how does the principle cease to be "all-wise, wholesome and well-directed" if chosen for the protection of all the people fifty-four days plus three hundred and eleven days more each year?

If the application of the principle of prohibition insures quiet Sabbaths and quiet elections, according to the mind of the friends of license, as is expressed in the text of the various license measures; will it not insure a quiet year, if adopted for the remaining three hundred and eleven days? Does it not seem strange, that the business which is prohibited from selling to certain classes of persons three hundred and sixty-five days in the year, and to all the people fifty-four days in the year, should become the most lucrative business on earth? It is estimated that the retail liquor traffic gleaned twelve hundred million dollars last year from the drinking classes, and that the drinking classes lost more than an equal sum in wage-earning time. The aggregated loss to the drinking classes would thus amount to two billion four hundred million dollars in a single year. Estimating the aggregated wealth of our country at seventy-two billion dollars, at the above rate of loss, it would require but thirty years to bankrupt the entire resources of the nation, if we did not flee from the awful calamity by the natural and industrial increase of wealth. We are accustomed to complain of hard times, of over-production, of bank failures, of lack of confidence, of strikes and lock-outs, and of destitution and want. While the cry of over-production has been made to ring

in our ears, we would have but little trouble to-day in finding millions of persons who are ready to swear by the god Bacchus, that the great trouble is under-consumption. Call no more extra sessions of Congress for the repeal of a Sherman Act; hold no more long sessions of Congress for the purpose of doctoring a sickly tarifff, or the nurturing of infant industries until they become giant trusts. Let the retail liquor men be generous for once. Let them turn the losses accruing to the drinking classes last year to me, and I will run the Government for one year, relieve every business which financial depression touches, and have enough money left to feed, clothe and shelter all the poor in the land through seven years of famine. Surely that which brings such destitution, want and misery to so many millions of our fellow-citizens constitutes a public nuisance both in a legal and moral sense. So convinced am I of this fact, that I verily believe, that if God should permit the fallen spirits to enjoy a year's vacation at the North pole, on condition that they would spend the whole time in an endeavor to invent a more infernal type of a nuisance, to be a substitute for the licensed saloon; that if they were honest devils and true to their profession, at the end of the time they would confess their incompetency, and adjourn *sine die*, and return to their native

place of torment mortified at their failure, and utterly disgusted with themselves, that they had been outdone in this particular by the friends and promoters of license.

SECTION V.

License Unconstitutional.

In entering upon the discussion of this proposition, I desire to call the attention of the court to the fact, that there are more than three million voters in our great republic who are professing Christians; a mighty balance of power, able to dictate the Christian policy of this great nation, if they were only willing to indicate to the dominant political parties that they had determined to stand together, in defense of every interest of Christ's kingdom. It is one thing to pass resolutions in the conferences and assemblies of the churches, in the interests of Christian civilization; and quite another thing to vote with the vulgar and the profane, to legalize the paramount interests of the kingdom of Satan. I call Heaven and earth to witness that the Judge of all the earth will hold the Church of Christ responsible for the continuance of the traffic in strong drink, since she refuses to exercise the power with which her glorious and exalted Head

has invested her, to stamp out the last vestige of the iniquitous business in a single year. I can do no better than to repeat, at this juncture, in the audience of the court, the concensus of the opinion of the entire Church of Christ in reference to the evil traffic in strong drink, as is voiced in the resolutions of the conferences and general assemblies of the Churches.

Methodist Episcopal Church on Prohibition.

The General Conference of the Methodist Episcopal Church at its quadrennial session in Omaha, Nebraska, in May, 1892, among a series of ringing resolutions, adopted the following as number four of the set:

(4) ATTITUDE TOWARD THE TRAFFIC.—*We reiterate the language of the Episcopal Address of 1888: "The liquor traffic is so pernicious in all its bearings, so inimical to the interests of honest trade, so repugnant to the moral sense, so injurious to the peace and order of society, so hurtful to the home, to the Church, and to the body politic, and so utterly antagonistic to all that is precious in life, that the only proper attitude toward it, for Christians, is that of relentless hostility. It can never be legalized without sin." We concur in the Episcopal*

Address of 1892, where it is declared: "In our judgment the saloon is an unmixed evil, full of diabolism, a disgrace to our civilization, the chief corruptor of political action and a continual menace to the order of society and the peace and purity of our homes." Believing as we do that the traffic in intoxicating beverages sustains the relation of an efficient cause to the vice of intemperance, we hold that no member of the Methodist Episcopal Church can consistently contribute by voice, vote or influence to the perpetuation and protection of that traffic. We declare before all the world that the Church of God ought to be known always and everywhere as the relentless and uncompromising foe of this ungodly business, and that it is the duty of every Christian to wage ceaseless warfare against it.

Presbyterian Church on Prohibition.

The General Assembly of the Presbyterian Church, at its triennial session in Portland, Oregon, May and June, 1892, adopted the report of its Committee on Temperance, protesting against the legalizing of the liquor traffic in Alaska, and reaffirming the deliverances of former Assemblies, and branding the saloon license as a curse. The report adds:—

"It is the sense of this Committee that, while it is not in the province of the Church to dictate to any man how he shall vote, yet the Committee declares that no political party has the right to expect the support of the Christian men so long as that party stands committed to the license policy, or refuses to put itself on record against the saloon.

Utterances of Other Religious Bodies.

Nearly all the different religious denominations have made official utterances against the liquor traffic. Those utterances, more in detail than they can be given here, will be found in "The Cyclopedia of Temperance and Prohibition," under the name of the respective denominations. A few extracts will show the drift of these declarations:

Lutheran (English Branch), June, 1887.—"The right, and therefore the wisest and most efficient, method of dealing with the traffic in alcoholic liquors for drinking purposes is its suppression; and we, therefore, also urge those who comprise the Church which we represent to endeavor to secure in every State the absolute prohibition of the manufacture and sale of intoxicating liquors as a beverage."

Baptist (through American Baptist Home Mission Society), 1890.—"Resolved, That we declare

ourselves among its (the liquor traffic's) most relentless foes, believing that it has no defensible right to exist."

Roman Catholic (Baltimore Plenary Council), 1884–5.—"*We warn our faithful people who sell intoxicating liquors to consider seriously by how many and how serious dangers and occasions of sin their business—although lawful in itself—is surrounded. If they can, let them choose a more honorable way of making a living.*"

United Presbyterian (General Assembly), 1889.—"*That any form of license or taxation of the liquor traffic is unscriptural in principle and contrary to good government. . . . That total abstinence is the only safe rule for the individual, and prohibition by law of the sale of intoxicating liquors as a beverage the true method of dealing with this terrible evil by the State.*"

Cumberland Presbyterian (General Assembly), 1889.—"*That nothing short of constitutional and statutory prohibition of the manufacture and sale of intoxicating liquors as beverages, by the United States and the several States, will be satisfactory; and to this end we will pray and work.*"

I am indebted to "The Handbook of Prohibition Facts," as edited by Wilbur F. Copeland, and as published by Funk & Wagnall's, of New York, for the compilation of the above resolutions

of the Churches. The resolutions speak for themselves, and are but the solemn breathings of the great denominations on this all-perplexing question. The resolutions, no doubt, are in perfect accord with the mind of Christ, and the only comment I wish to make may be clearly discovered in the following question: Where is the social and moral conscience of the Christian people, in passing such resolutions through their representative assemblies, while nearly ninety-five per cent. of the voting constituency of the Churches continued to cast their ballots for the political parties which favored the legalizing of the very evil against which the resolutions were directed?

Vile men in high places may continue, by statutory enactment, to authorize that which tends to create vice and immorality; yet the day will come, with the progress of a higher civilization, when the Supreme Court will declare the nefarious imposition unconstitutional. I believe the time has arrived for just such a decision; and it affords me unbounded pleasure at this moment to arraign the entire license system relating to the traffic in strong drink as unconstitutional. While millions of our people were perishing under the ravages of the legalized plague, we were made to lament the conscienceless slowness of our nobler

citizens to move for a redress of our grievances. The infernal traffic has already branded the curse of Cain on many faces, and when the unconstitutionality of the traffic shall have been established, it will require from three to four generations of righteous living to emancipate the race from under the evil effects of the hereditary curse. We believe we have already succeeded in establishing the fact that the saloon is a public nuisance, both in a legal and in a moral sense; and we should have but little difficulty in convincing the court that it is unconstitutional to license a public nuisance. It might be well to repeat the fact that when once a public nuisance has been discovered, there is no recognized principle at law for dealing with the same that does not provide for its abatement. In entering into the real merits of the discussion of this proposition, it is necessary to attain to a clear understanding of the relationship of the three general classes of law as it exists in God's plan, and as it must be received by all nations in the Millennial state. A careful study of the diagram which I now exhibit to the court, together with the analysis which follows, will make the whole matter clear to every careful observer.

GOD OVER ALL

Christ is King + The Bible Law

OVER FOR

THE NATION

JUDICIARY

UNCONSTITUTIONAL

Statutory Law — Law of The Third Order

DECISIONS

Common Law — Law of The Third Order

UNCONSTITUTIONAL

THE CONSTITUTION

Law of The Second Order

THE DIVINE LAW

Law of The First Order

I II III IV — Rights of God

V VI VII VIII IX X — Rights of Man

The Moral Law.

The first section of this diagram, beginning at the bottom, is spoken of as the Divine Law. We have in mind the Decalogue, as is indicated by the Roman characters. The Decalogue is

Law of the First Order

and in its two tables, in a perfect way, it expresses the rights of God and the rights of man. It is (speaking reverently) the briefest intelligible digest of the wisdom of God for the government of man in every sphere of human existence. It is the Christian basis of government. It is supreme *organic;* it is supreme *perfect;* it is supreme *independent.* It is master of all other law, and all other law is its servant. It should command all other law, and all other law should obey. It is *supreme* organic, because its Author is the Supreme Organizer of all things. It is *supreme* perfect, because its Author is the only all-wise Law-Giver. It is *supreme* independent, because its Author is the only self-existent, independent Law-Giver. It is law of the first order, because it was enacted by the Supreme Power of Heaven, and always commends right by prohibiting wrong. It is constitutional and universal, intended to govern

the hearts and lives of all people everywhere. It is "the perfect law of liberty," and should be recognized as *supreme organic law* in all Christian countries. Being supreme perfect, when its precepts shall be perfectly obeyed, it will absolutely free the country from all civil and criminal offenses.

Maxim.

It is absolutely impossible for a citizen in any country, under any form of government, ever to commit either a civil or criminal offense without it resulting either in a direct or indirect violation of one or more principles of the Decalogue.

Hence, the Law of Christ, as is expressed in the Decalogue, covers man's entire conduct in every sphere of human existence, and logically it should be recognized everywhere as of supreme authority in civil matters. It is, in very fact, Law of the First Order.

The court will observe while I circumscribe the second section of the diagram. Within this section I have written

Constitutional Law,

which I designate as Law of the Second Order. I thus make law of the second order to rest logically and securely upon law of the first order. The Constitution of the State and nation should

be regarded as law of the second order, at least, until they be brought into perfect accord with law of the first order. The Constitution of the State and nation, not being the product of the mind of an all-wise law-giver, cannot logically rank above law of the second order. Thomas Jefferson and his associates, in preparing the Constitution of our country, were not all-wise. We have already rectified fifteen mistakes by as many amendments, in a little more than a period of one hundred years; and it is possible that we may be able yet to rectify as many other mistakes, before the Constitution—law of the second order—be brought into perfect accord with the Moral Law—law of the first order. Since law of the first order has continued for nearly four thousand years without any one being able to attach a single amendment, law of the second order should recognize the same as its master, and be made to rest thereon as the Christian basis of government. Hence, the logical and natural relationship which exists between law of the first order and law of the second order is that of master to servant. It is always the prerogative of a master to command and of a servant to obey. If law of the second order was made to recognize the law of Christ—law of the first order—as of supreme authority in civil matters, we would

then have a constitutional guarantee for all our Christian usages, as well as constitutional prohibition of all the ills that afflict society. If the Christian people could be made to see clearly the great advantage of such relationship, I believe they would unite as one man to bring it to pass in the enactment of a Christian amendment to the Constitution of the United States.

The establishment of such relationship between law of the first order and law of the second order is not only logical and natural, but it is absolutely necessary, that we may attain to the highest possible constitutional guarantee for all those statutes which, in defense of our Christian usages, are found to be in perfect accord with the law of Christ. Such relationship is also necessary for the speedy setting aside of all those statutes as unconstitutional which are in direct conflict with the law of Christ, and which prove so hurtful to society.

The court will now observe while I bound two oblong figures, a little separated the one from the other, and both resting upon the Constitution, or upon law of the second order. I have written on one of these figures Statutory Law, and designated the same as Law of the Third Order; I have written upon the other figure, Common Law, and designated this also as Law of the Third Order.

Statutory and Common Law.

While I am aware of the fact that in Great Britain, where there is no written constitution, the decisions of the King's Bench, which are often designated as the Common Law of England, are regarded as taking the place of a written constitution. Yet, in our own country, where we have a written constitution, Common Law seems to admit of another definition, which would logically retire it to a parity with statutory law, which will account for our marking it the same as statutory law—law of the third order.

Statutory and Common Law Defined.

Statutory Law is enacted by our State Legislatures and by the Congress of the United States. All such enactments when executed, administered and enforced, to be law in fact, and to be constitutional, should, according to a directory principle in constitutional law, "tend to promote either the educational, the industrial, or the moral and social welfare of the people." If a statutory enactment proves to be detrimental to any or all of these interests, it is law in name only, and at the first opportunity it should be set aside as unconstitutional.

Common Law in our country (aside from the

decisions of the Supreme Court) is the common acceptation of a principle on the part of the people, as though it were a statute, where no statute had ever been enacted relating to that particular principle. Hence this particular form of common law is on a parity with statutory law, and must be regarded as law of the third order. This diagram, as an eye-picture, presents to the court a clear and perfect analysis of the relationship of the three general classes of law as it exists in God's plan and as it must be received by all nations in the Millennial state. Then the Moral Law, or the Law of Christ, will everywhere be recognized as law of the first order. It will everywhere be recognized as the Christian basis of government. Then law of the first order will command law of the second order, and law of the second order will obey. Then law of the second order will command law of the third order, and law of the third order will obey. Then the prophetic song of the herald angels will be fulfilled in the culmination of the ultimate intention of Christ's advent into the world: "Glory to God in the highest, and on earth peace, good-will toward men."

The court will now observe its own important place in the diagram. The figure in which is written JUDICIARY DECISIONS is in the form of

the letter T, and represents the efficient and felicitous position of the Supreme Court. The lower end of the letter T rests, like Statutory and Common Law, upon the Constitution, indicating that all the decisions of the Supreme Court should be true to that foundation. The right and left arms of the letter T rest securely upon Statutory and Common Law and hold them to their foundation, indicating plainly that when the Supreme Court looks at a statute, or an ordinary principle at Common Law, it must view the principle in the light of the Constitution ; and if found to be true to the spirit and letter of that instrument, it must declare the principle constitutional and hold the same in sure contact with the foundation forever. When a statute or a principle of Common Law is found to be in violation of the spirit or letter of law of the second order, it is the duty of the Supreme Court to set it aside as unconstitutional.

On this wise and unique plan, God is over all. Christ is the providential King over the nation ; and the Bible, in so far as it is applicable to nations, is law for the nation. Although, at the present time, there is no suitable recognition of Christ and His law in the Constitution, yet the Constitution, in the real spirit and intention of its preamble, affords ample grounds for declaring that

the entire license system, authorizing the sale of intoxicating beverages, is unconstitutional. Do those statutory enactments which authorize the sale of intoxicating beverages, "when executed, administered and enforced, tend to promote either the educational, the industrial, or the moral and social welfare of the people"? That is the great question which we ask this court to decide. Does it help to promote a man's educational interests for him to become an habitual drunkard in a licensed saloon? Does it enable him to make the best possible use of the education which cost the State so much money to furnish to him? Does it tend to promote his industrial interests? Does it enable him to succeed so well in his vocation or industrial calling that his time and services will be everywhere in demand? Does it tend to make him a better man, morally speaking, until he is a perfect example for our children to follow? Does it fit him for the enjoyment of heaven? These are some of the questions which an anxious world will expect you to answer when you hand down your decision. We will then understand whether the two hundred and fifty thousand licensed dram-shops in our country have really succeeded in "promoting the educational, the industrial, or the moral and social welfare of the two million five hundred thousand habitual drunkards which

have been graduated from our licensed schools of anarchy.

Every legislative enactment, therefore, which tends to subvert the educational, the industrial, or the moral and social welfare of the people, is not only in treasonable relationship to the real purpose of constitutional law, but may be regarded as a deadly thrust at the very life of the State. All such enactments are law in name only. It must now appear plain to every one that the statutes enacted by the several States and by Congress, authorizing the sale of strong drinks, are in treasonable relationship not only to every interest of society, but to the spirit and letter of the Constitution. Men may perpetrate treason against their country in two ways: First, by conspiracy, in a direct attempt at the overthrow of the Government. Second, in the wilful enactment and administration of statutory measures in direct conflict with law of the first and second order. The most acute form of treason may be discovered in the conduct of the high official who is sworn to administer statutory measures which are found to be in direct conflict with law of the first and second order. The Supreme Court has already decided that the principle of prohibition is constitutional in the Kansas cases, which were carried up by the liquor men. Can the opposite principle

of license also be constitutional? If two direct opposites, relating to one and the same question, are both constitutional, when viewed in the light of one and the same constitution, then anything between the opposites must also be constitutional. This being true, all things are constitutional; and there can be absolutely nothing for a Supreme Court to set aside. Such fallacy in legislation would annihilate the necessity for the existence of a Supreme Court; for there would be nothing for a Supreme Court to set aside. Such a decision would render the Supreme Court as illogical as the great prophet Isaiah declared the children of Judah and the inhabitants of Jerusalem to be when he exclaimed, "Woe unto them that call evil good, and good evil; that put darkness for light, and light for darkness; that put bitter for sweet, and sweet for bitter." The Supreme Court has already commended right when it pronounced the prohibitory law of Kansas constitutional. The court must commend wrong and call evil good if it declares the opposite principle of license also constitutional.

The friends and promoters of license have denounced the advocates of the principle of prohibition as "cranks" and "fanatics." We will now classify those who must fall under such reproachful stigmas. First, the members of

The Continental Congress.

The Continental Congress passed the following unanimous prohibitory resolution on February 27, 1777, the year after signing the Declaration of Independence: "*Resolved, That it be recommended to the several Legislatures in the United States, immediately, to pass laws the most effective to prevent the pernicious practice of distilling grain, by which the most extensive evils are likely to be derived, if not quickly prevented.*" This was the unanimous resolution of the Congress of the United States, at a time when American patriotism had reached the high-water mark. Yet, if those heroes of the Revolution had lived in the days of Canteen Griggs and "William the Silent," they would have been denounced as "cranks" and "fanatics," by the leaders of the dominant license parties. The resolution had behind it the same noble patriotism that inspired and prompted the Declaration of Independence during the preceding year. If the great statesmen—the early fathers and founders of our great republic—were resurrected to-day, and participated in directing the affairs of the State and nation, they would be compelled to join the ranks of the Prohibition Party. The present generation has fallen heir to the extensive evils which were anticipated in the above resolution, because "the pernicious practice of distilling

grain was not quickly prevented." The Act of Congress which authorizes the collecting of an internal revenue from the distillers and brewers of our country is to be regarded as the voice of the dominant license parties, and as a part of the modern "all-wise, wholesome and well-directed temperance measures." On every Fourth day of July, the leaders of the dominant license parties celebrate the patriotism of Washington, Adams, Jefferson, Hamilton and Hancock; while, at the same time, they denounce their compeers in the great cause of prohibition as "cranks" and "fanatics." They shout themselves hoarse in praise of our prohibition fathers, and at the same time, they authorize the schools of anarchy, wherein were graduated the assassins of Moffet, Gambrell and Haddock. "Woe unto you: for ye build the sepulchres of the prophets, and your fathers killed them. Truly, ye bear witness that ye allow the deeds of your fathers: for they indeed killed them, and ye build their sepulchres."

Abraham Lincoln.

Second: Abraham Lincoln must also be listed with the "cranks" and "fanatics." If he was resurrected to-day, he would be under the necessity of joining the ranks of the Prohibition Party. Hear that marvelous instrument—the phonograph

—re-utter a section from the speech of Abraham Lincoln, as delivered by him on the 22d day of February, 1842: "*Whether or not the world would be vastly benefited by the total and final banishment from it of all intoxicating drinks, seems to me not now an open question. Three-fourths of mankind confess the affirmative with their tongues; and, I believe, all the rest acknowledge it in their hearts. . . . . And, when the victory shall be complete—when there shall be neither a slave nor a drunkard on the earth—how proud the title of that land which may truly claim to be the birthplace and the cradle of both those revolutions that shall have ended in that victory. How nobly distinguished that people who shall have planted and nurtured to maturity both the political and moral freedom of their species.*" If Abraham Lincoln was alive to-day, and should utter such heaven-inspired words in an inaugural address at the Capitol at Washington, he would at once become as prominent a target for the dagger or the bullet of an assassin as any of those who have fallen in martyrdom to the great cause of prohibition.

Grover Cleveland.

Third: Grover Cleveland, the friend and promoter of license, was also a "crank" and "fanatic." Hear him in his annual message to

Congress, in December, 1892: "*It being the plain duty of this Government to aid in suppressing the nefarious traffic, impairing as it does the praiseworthy and civilizing efforts now in progress in that region; I recommend that an act be passed prohibiting the sale of arms and intoxicants to the natives in the regulated zone by our citizens.*"

How are we to account for such a declaration, coming from a whiskey President, administering the affairs of the Government upon a whiskey platform? Perhaps he had become a fairy, without wings, for the time, and was transported in an air-ship to mid-ocean, a mile above the imaginary line that marks the neutrality of waters, where with great freedom he could declare that he was a citizen of no country; where he could turn his face toward the shores of the Dark Continent and declare with all the buoyancy of an angel that the traffic in strong drink is "nefarious" when practiced upon the unconverted heathen, while "the praiseworthy and civilizing efforts" of the Christian church are being put forth for their conversion; and then, turning his face toward the shores of our Christian republic, he could declare with the subtlety of the devil that the licensed traffic in strong drink was "all-wise, wholesome and well-directed," when practiced upon those who were already converted.

If it be possible that the principle of license is "nefarious" when practiced by our citizens upon the dark-complected heathen while they are in the process of conversion, how does the same principle become "all-wise, wholesome and well-directed" when practiced by our citizens upon the fairer-skinned Caucasians who are already converted?

The Supreme Court of the United States.

According to the past decisions of the Supreme Court of the United States, this august tribunal must also be classed with the "cranks" and "fanatics," by the present living statesmen in our country. It must now appear evident to the Court that many of our modern statesmen, the associated press, and even many professing Christians are all so subsidized by the rum-power as to be ready to do its bidding in our national conventions, at the ballot box, in the halls of Congress and in the majority of our State Legislatures. The iniquitous power of the traffic to corrupt all that is pure and good is a strong argument in support of the proposition that license is unconstitutional. The Supreme Court, when dealing with the Kansas cases, in justification of the prohibitory law, used the following language: "*A public nuisance may be abated.* (The reference is in regard to the licensed saloon,

or speak-easy.) *Everything prejudicial to the health or morals of a city may be removed.*" "*It is not necessary for the sake of justifying the State legislation, now under consideration, to array the appalling statistics of misery, pauperism and crime, which have their origin in the use or abuse of ardent spirits.*" The above utterances of the court, as I have already intimated, were called forth in defense of the prohibitory law of Kansas, and in opposition to the principle of license. In further procedure of the Kansas cases the Supreme Court used the following language: "*We cannot shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety, may be endangered by the general use of intoxicating drinks; nor the fact established by statistics accessible to every one, that the idleness, disorder, pauperism, and crime existing in the country are in some degree, at least, traceable to this evil.*"

This is the evil which a Canteen Griggs and a "William the Silent" did seek to encourage and condone. I presume that modern statesmen of this type would be ready to denounce the members of the Supreme Court as "cranks" and "fanatics," because of the above opposition to the principle of license, which the dominant politicians are accustomed to laud as "all-wise, wholesome and well-directed temperance measures."

In the decision of the Supreme Court of the United States in the case of California *vs.* Christiansen, the court used the following language: "*There is no inherent right in a citizen to sell intoxicating liquors by retail; it is not a privilege of a citizen of a State, or of a citizen of the United States.*" We understand that each citizen has the inherent right to "life, liberty and the pursuit of happiness." Our nation prides herself in a willingness to exhaust her resources in defense of the real rights of her citizens. The right to sell intoxicating liquors as a beverage is not a real right. Under the guise of right it is a tremendous wrong against "life, liberty and happiness."

This is true in the case of every habitual drunkard. The sale of that which creates idleness, misery, destitution, pauperism, immorality and crime should be declared an enormous wrong, a public nuisance, and forever be set aside as unconstitutional. Men can claim to have an inherent right to sell that only which tends to promote "life, liberty and the pursuit of happiness."

The Public Health and the Public Morals Defended.

The Supreme Court has said: "*No legislature can bargain away the public health or the public*

morals. The people themselves cannot do it, much less their servants. Government is organized with a view to their preservation, and cannot divest itself of the power to provide for them."—United States Supreme Court in Kansas cases.

Thus we see that to license the traffic in strong drink is to barter away the public health, the public morals and the public safety. We see also that our public servants have undertaken to do what the people themselves have no right to do. We see, moreover, how the very functions of government are perverted and prostituted to the fostering of disease, misery, idleness, pauperism, immorality and crime. Our officials, the public servants, have become the public masters, while the sovereign people have lost their sovereignty and are at the mercy of the official oligarchy. The government originally organized with a view to the preservation of the public health, the public morals and the public safety, is now under contract to barter these interests away for a corruptible and corrupting revenue. We pray the Supreme Court to-day to restore to the sovereign people the power which has been stolen and bartered away by a subsidized hoard of usurpers. We ask the court to re-breathe one of its former Heaven-inspired utterances : "*If, therefore, a statute purporting to have been enacted to pro-*

tect the public health, the public morals, or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution." We claim that the statutory enactments, authorizing and giving direction to more than two hundred and fifty thousand licensed dramshops, do not tend to promote the public health, the public morals or the public safety, but the very opposite. We claim that all such enactments "are a palpable invasion of rights secured by the fundamental law," and that "it is the duty of the courts to so adjudge, and thereby give effect to the Constitution." We not only believe the license measures to be a palpable invasion of rights secured by the fundamental law, but also that they are in direct conflict with every interest of society and with the spirit and letter of every principle of the preamble of the Constitution of the United States. But time and space would fail us in being able to cite the felicitous profusion of the utterances of the Supreme Court against the evils of the traffic in strong drink. We believe the above citations to be abundantly ample to convince the world as to the unconstitutionality of the iniquitous business.

We have chosen to license

The Direst Thing of the Ages.

The direst thing of the ages is the most impious thing that the greatest age of light and opportunity tolerates. For "men are judged according to the light they possess." "To whom much is given, of him shall much be required." The direst thing of the ages exists now, and has thrown around it the shield of Governmental approval and protection, in the midst of the most resplendent light that ever illumined the annals of time. Like an osseous cancer, it has fastened itself, as it were, upon the bone and tendon of the Church and State, and premonates death to both, if the disease receive not heroic treatment, before the third and last stage of the malady be established. When we have carefully diagnosed the case we are able to discover from the semi-idiotic leer on many faces that the curse of heredity has surcharged the life-fluid of men of every clime, every hue, every rank and station. If we should apply to them the term of lunatic, it would not be inappropriate. When we have diagnosed the case and we are asked the question, Doctor, what is the matter? I would reply: It is a disease that affects the afflicted like the poison of asps. It is an insidious, deadly virus. The hold and reign of king Alcohol upon a world of nations is most ruinous. May God save both the Church and

the State from dissolution and death, caused by a disease so appalling and loathsome. As the churches blush and hang their heads to-day for shame when the mantle is lifted but a little from their actions regarding human slavery, so will they in the days of our grandchildren be ashamed of the duplicity of their fathers in passing proper resolutions against the retail liquor traffic, and leaving them as far from moral enforcement and discipline as Michael left Lucifer after his nine days fall from Paradise. The churches of the future may wish that the unenforced resolutions of their fathers were buried so deep that Gabriel's trumpet would never resurrect them to accuse their authors in the final judgment. When God wrote resolutions He wrote them in lightning, announced them in thunder, and conjoined them with the discipline: "The nation and kingdom that will not serve thee shall perish; yea, all those nations shall be utterly wasted."

We now present a diagram showing most clearly the unreasonableness and unconstitutionality of the liquor traffic, and the great interests that demand its immediate prohibition.

LET GOD ARISE.

EVERY

NATIONAL, DOMESTIC

AND

PERSONAL INTEREST

DEMANDS

The Church;
The State;
The Home;

ABSOLUTE

IMMEDIATE

AND

UNCONDITIONAL

The Mind;
The Body;
The Vocation.

PROHIBITION

UNION;
JUSTICE;
TRANQUILITY;

IN

ACCORDANCE

WITH THE

BIBLE

AND THE

PREAMBLE

OF

THE

WELFARE;
DEFENSE;
LIBERTY.

CONSTITUTION.

THE MORAL LAW.

Following the line suggested by the diagram, I this day contend that every national, domestic and personal interest demands the absolute, immediate and unconditional **PROHIBITION** of the traffic in strong drink, and this in accordance with the Bible and the preamble of the Constitution of the United States, as it should rest upon the **MORAL LAW.** I repeat that every true interest demands the prohibition of the traffic in strong drink. **The Church; The State; The Home; The Mind; The Body; The Vocation; Union; Justice; Tranquility; Welfare; Defense; Liberty;** all of these great institutions, organizations, causes, interests and principles, when taken together, in one grand chorus demand the absolute, immediate and unconditional **PROHIBITION** of the licensed traffic in strong drink in accordance with the Bible and the preamble of the Constitution of the United States as it should rest upon the **MORAL LAW.**

I append the following poem at the request of the Supreme Court. The court intimated that the pathetic language of the poem came to the mind of the members of the court like the voice of millions of fathers and mothers calling the one to the other, "O, which way will you have your boy to go?"

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Which Way Will you Have Your Boy to Go?

O, which way will you have your boy to go?
Two well-marked roads beyond do part, you know—
The mountain-path—the straight and narrow way;
And the decline, where fogs and mists do play.
That fair young form, your boy, will tread but one;
He cannot travel both, nor travel none;
Just over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
Your boy may travel fast, or travel slow;
Yet travel must the way of peace and life,
Or else the way of sin and shame and strife.
The way where God is loved—where heart is pure,
Or path of lust that leads to ruin sure;
Yes, over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
You know he'll run for weal, or run for woe;
He'll find the path that leads to yon bright home;
Or find the road to death—the sinner's doom;
He'll find the fount where sin is washed away,
Or find his vileness grow more vile each day.
For over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
That fair and tender child you cherish so;
O, will you launch his bark on waters bright,
And bid him watch for heaven's beacon light?
Or have him guide his boat with wayward hand,
And eat and drink and sport with drunken band?
For over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
Dear mother, say: 'Tis God who wants to know.
Our country opes a way that she should close,
Lets demons crush our boys with mortal blows;
For by a license-law strong drink is sold,
To fill our homes with death—her vaults with gold;
Yes, over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
The drunkard's swift descent far down below,
Where vile debauch deforms the fairest life,
Where man dishonors sister, mother, wife?
Or royal road where all who walk are blest?
Dear father, say, which way do you think best?
For over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
Shall Jesus cleanse from sin—make white as snow?
Will you instruct his lips to temp'rance mild?
Or have his passsons fired, his soul defiled?
He'll drink his wine, and quaff his demon bowl,
And run with speed unto his dreadful goal:
For over one he's bound to pass, you know;
O, which way will you have your boy to go?

O, which way will you have your boy to go?
Beyond the clouds where crystal waters flow?
To sparkling seas—to thrones of glory bright—
To mansions where the Saviour is the light?
Or far adown the slope of endless death—
To drunkard's grave—to prison house beneath?
For over one he's bound to pass, you know;
O, which way will you have your boy to go?

SECTION VI.

MOURNING A LOST CAUSE.

It is reported that when the time had arrived for the attorney in the defense to proceed with the closing argument, that he broke down completely, claiming to be indisposed, and after requesting the court to carefully consider the cause of the defense from the brief by which the case was originally conveyed to the court, he sank into a seat, buried his face in his hands, and continued to weep and sob aloud as if his heart would break, until his friends were obliged to assist him from the court-room to his home, where he made the statement that he had determined never again to appear in the defense. Hence this page is appropriately set in mourning, and is entitled:

MOURNING A LOST CAUSE.

SECTION VII.

Decision of the Supreme Court.

Truth and justice are inseparably united. When truth looks down from Heaven, righteousness and justice should mutually kiss each other. The gradual infusion of truth into the hearts and souls of men is but the power of the spiritual forces of the unseen world lifting us into a higher and purer civilization. The court is cognizant of the fact, as presented by the prosecuting attorney, "that the Law of Christ, as it is expressed in the Decalogue, is the briefest intelligible digest of the wisdom of God for the government of men in every sphere of human existence." When men carefully observe and obey the first four great principles of the Decalogue, they truly respect God's rights; and God's rights extend to every part of the universe. When men properly observe and obey the other six principles of the Decalogue, they are simply obedient to the perfect bill of human rights, and they remain free from committing civil or criminal offences. The two tables of the Decalogue, when taken together, constitute "the perfect law of liberty;" because, when perfectly obeyed, it results in the highest type of liberty. While the Constitution of the United States is commonly regarded as the supreme law

of the land, it is the plain duty of the Supreme Court, in agreement with the prosecuting attorney, to inform the people that the Moral Law is *supreme organic, supreme perfect, supreme independent.* Hence, the logical relationship of the human law to the divine must forever continue to be the same as that of servant to master. Therefore, we must come to recognize the law of Christ, in so far as it relates to nations and governments, as the final source to which appeal is made in all matters of jurisprudence. For Blackstone says: "That is not law which controverts the law of God." This appears to be the spirit of the unwritten constitution, as may be discovered in the hearts and lives of a large majority of our citizens, and should, at the earliest possible opportunity, find suitable expression in the fundamental law of the land. The court observes that the Christian character of our institutions indisputably establishes the fact of the Christian character of the nation. Moreover, in order that we may be able in a more perfect way to protect the good order of society, and to promote every human interest, Congress and the several States have seen fit, either in a direct or indirect manner, to re-enact into statutory law every principle of the Decalogue. We wish to emphasize the fact that the proper enforcement of the principles

of the Decalogue is the surest guarantee to the highest type of liberty. We must come to recognize the law of Christ as the Christian basis of government, in order that we may succeed in the complete suppression of vice, immorality and crime. The evolution of the social conscience, in our land of Bibles and churches, has made such rapid progress that the glory of this, the second decade of the twentieth century, may be said to surpass that of the closing decade of the nineteenth century almost as far as the light of day surpasses that of the night. The voice of a Platt, a Quay, a Hanna and a Croker is no longer heard in our land. Our governors and presidents are no longer required to dance to the tune of the crack of the lash of political ringmasters. In view of these facts, the Supreme Court is unanimous in its opinion that the saloon is a public nuisance, both in a legal and moral sense; and that the licensed traffic in strong drink is a palpable invasion of all human rights, an insult to the intelligence of man, and an unpardonable outrage upon every immortal interest. We also pronounce the entire system of license, relating to the traffic in strong drink, to be inimical to society, injurious to the home, the Church and the State, defiling even the blackest pages of history, and should be declared

unconstitutional. It is that which has caused men in high places to laugh at abounding iniquity and to stand in the way of the progress of reformation. It has proved to be in direct hostility to "the educational, the industrial, the moral and social welfare of all the people." When such perversion of the real intention of constitutional law appears in statutory enactment, it is the duty of the Supreme Court, when properly approached, to declare such sacriligious attempt at legislation unconstitutional, and thereby give effect to the Constitution. In view of the Diagram and all the interests it represents—interests of the most momentous character; interests relating to the home, the church, and the nation; interests pertaining to the soul and body of man, to his life here and hereafter; interests extending throughout the vast eternity—in view of all this, and of the awful havoc wrought upon these interests by the retail liquor business, we are unanimous in the opinion that the saloon is a public nuisance, both in a legal and in a moral sense; and that license, in so far as it relates to the traffic in strong drink, is unconstitutional. We therefore call upon the government to suppress the saloon as a public nuisance. In support of this decision, and for the benefit of an anxious and expectant people, we append a few of the previous utterances of the Supreme Court:

I. NOT AN INHERENT RIGHT.

There is no inherent right in a citizen to sell intoxicating liquors by retail; it is not a privilege of a citizen of a State, or of a citizen of the United States.—United States Supreme Court, California, *vs.* Christiansen.

II. CAN THE LEGISLATURE CONFER THE RIGHT?

No Legislature can bargain away the public health or the public morals. The people themselves cannot do it; much less their servants. Government is organized with a view to their preservation, and cannot divest itself of the power to provide for them.—United States Supreme Court, Stone *vs.* Mississippi.

III. CAN THIS APPLY TO LICENSE?

For we cannot shut out of view the fact, within the knowledge of all, that the public health, the public morals, and the public safety may be endangered by the general use of intoxicating drinks; nor the fact, established by statistics accessible to every one, that the disorder, pauperism and crime prevalent in the country are, in some degree at least, traceable to this evil.—United States Supreme Court in Kansas Cases.

IV. The Saloon a Source of Crime.

The statistics of every State show a greater amount of crime and misery attributable to the use of ardent spirits obtained at these retail liquor saloons than to any other source.—United States Supreme Court, California, *vs.* Christiansen.

V. The Duty of the Supreme Court to Set Aside Such Measures.

If, therefore, a statute purporting to have been enacted to protect the public health, the public morals or the public safety, has no real or substantial relation to those objects, or is a palpable invasion of rights secured by the fundamental law, it is the duty of the courts to so adjudge, and thereby give effect to the Constitution.—United States Supreme Court.

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